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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,039	12/10/2001	Dale Stevenson	TACOBEL.021C1	7108

20995 7590 12/19/2003

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EXAMINER

Madsen, Robert A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/015,039

Applicant(s)

STEVENSON ET AL.

Examiner

Robert Madsen

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1, drawn to an apparatus for frying comprising a lid with an array of alternating long and short U-shaped wires, classified in class 99, subclass 426.
 - II. Claim 2, drawn to a chip fry lid with a wire frame and bent wires attached to the frame and extending downward in a series of repeating long and short prongs, classified in class 99, subclass 426.
 - III. Claim 3, drawn to a chip fry lid with a wire frame and a series of repeating long and short posts extending downward from the frame, wherein each of the posts is formed by the juxtaposition of a pair of U-shaped wire prongs that depend from the frame, classified in class 99, subclass 426.
 - IV. Claim 4, drawn to a chip fry lid with a wire frame and a series of repeating long and short posts extending downward from the frame, wherein each of the posts is formed by the juxtaposition of a pair of bent wires in which the bottom of each post is formed by wires bent to form two general horizontal wires classified in class 99, subclass 426.
 - V. Claim 5, drawn to an apparatus for frying comprising a chip fry lid with an undulated under surface, classified in class 99, subclass 426.

- VI. Claim 6, a chip fry lid comprising a substantially rectangular frame and an undulated bottom surface , classified in class 99, subclass 426.
 - VII. Claim 7, drawn to a method for deep frying a chip comprising loading masa bread pieces into a basket, covering the pieces with a lid having an array of downwardly extending long and short prongs , lowering the basket into the hot oil, oscillating the lid so the chips are contacted and agitated by the prongs, classified in class 426, subclass 439.
 - VIII. Claim 8, , drawn to a method for deep frying a chip comprising loading masa bread pieces into a basket, covering the pieces with a lid having an undulated bottom surface , lowering the basket into the hot oil, oscillating the lid so the chips are contacted and agitated by the prongs, classified in class 426, subclass 439.
2. The inventions are distinct, each from the other because:
3. Invention I and each of Inventions II,III, and IV are related as combination and subcombinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombinations as claimed because Invention I does not require a wire frame or prongs to extending downwardly from the bottom surface (i.e. the prongs merely "depend from" the bottom surface) as required by Invention II, III, and IV. Invention I further does not require a series of repeating prongs

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formed by bent wires as required by Invention II, *pairs of juxtaposed* repeating U-shaped prongs as required by Invention III (Invention I requires *alternating* U-shaped prongs), or juxtaposed bent wires formed by horizontal and vertical wires as required by Invention IV. The subcombinations each have separate utility such as Invention II could be used to rake leaves, Invention III could be used as a cooling rack, and Invention IV could be used as a rack for hanging utensils.

4. Inventions I, II, III, and IV are each unrelated to Invention V and Invention VI. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions utilize a different type of fry lid configuration. Inventions I, II, III, and IV require wire prongs/posts depending from the lid whereas V and VI require an undulated surface depending from the lid.

5. Invention V and Invention VI are related as combination and subcombinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombinations as claimed because it does not require a substantially rectangular frame. The subcombination has a separate utility in that it could be used for imprinting a pattern on the surface of cookie dough prior to baking.

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6. Invention VII and each of Inventions I, II, III, and IV are related as process and apparatuses for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatuses as claimed do not have to be used as fry lids but Invention I can be used as key ring holder, Invention II could be used to rake leaves, Invention III could be used as a cooling rack, and Invention IV could be used as a rack for hanging utensils.

7. Invention VII and both Invention V and Invention VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions utilize a different type of fry lid configuration: Invention VII is a method of using a wire prongs/posts depending from the lid whereas Inventions V and VI are apparatus directed to a lid having an undulated surface.

8. Invention VII and Invention VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions utilize a different type of fry lid configuration. Invention VII requires wire prongs/posts depending from the lid whereas Invention VIII requires an undulated surface depending from the lid.

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9. Invention VIII and both Invention V and Invention VI are related as process and apparatuses for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatuses as claimed (i.e. a lid comprising an undulated surface) could be used for imprinting a pattern on the surface of cookie dough prior to baking.

10. Invention VIII and each of Inventions I, II, III, and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions utilize a different type of fry lid configuration: Invention VIII is a method using a fry lid with an undulated surface depending from the lid, but Inventions I, II, III, and IV are apparatuses that require various posts or prong configurations (i.e. not an undulated surface).

11. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

12. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

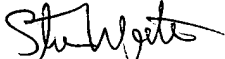
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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9310.

15. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen
Examiner
Art Unit 1761


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
12/15/03
for M. Cano